



30 June 2022

Response to IICSA Residential School Report Recommendations

I am writing to update the Independent Inquiry into Child Sexual Abuse on the Government's position regarding the recommendations in the Residential School Report, published in March 2022. The Department for Education (the department) has consulted across government in considering this report and preparing a response. The Government agrees with the Inquiry on the need for all children to be safe at school, especially when that school is also their home. We remain firmly committed to ensuring that we continue to consider these findings and recommendations carefully with some aspects needing public consultation in due course.

Recommendation 1: Residential schools

The Department for Education should:

(i) require all residential special schools to be inspected against the quality standards used to regulate children's homes in England and care homes in Wales

As set out in its previous evidence submitted to the Inquiry, the department is still of the view that the best way to protect children in residential special schools is to strengthen the residential special schools (RSS) National Minimum Standards (NMS). The department published the RSS NMS on 20 May 2022, which come into effect on the 5th September 2022. We note that there are aspects of the children's homes quality standards¹ that could add value to the NMS for RSS. As such, we will conduct a thorough review of the NMS for RSS as well as the NMS for boarding schools. In doing so we will consider where the relevant NMS could be further strengthened, drawing from the children's homes quality standards. If we identify further areas to strengthen, we will consider running a public consultation, with the most likely date for any revised standards to be in place being September 2024. As a general point, RSS which are dual registered as a children's home will also be subject to the children's homes quality standards.

(ii) reintroduce a duty on boarding schools and residential special schools to inform the relevant inspectorate of allegations of child sexual abuse and other serious incidents, with professional or regulatory consequences for breach of this duty; if the recommendation above is implemented, residential special schools will automatically be subject to this duty

There was a standard within the 2002 NMS for RSS (but not in the NMS for

¹ As set out in the Children's Homes (England) Regulations 2015 and the Guide to the Children's Homes Regulations including the quality standards.

boarding schools) that required notifications to be made to the National Care Standards Commission (who were responsible for inspecting RSSs at the time), the local social services authority, the department, the placing authority and, for maintained schools, the local education authority of certain events including serious illness, injury or death of a child while at school and inappropriate conduct by a staff member. This standard was removed when the NMS were reviewed in 2012.

Those RSS who are dual registered as children's homes will need to comply with the children's homes quality standards, which includes notification requirements in respect of certain events (such as, for example where a child is involved in or subject to, or is suspected of being involved in or subject to, sexual exploitation; an incident requiring police involvement occurs in relation to a child which the registered person considers to be serious; and/or where there is an allegation of abuse against the home or a person working there (see regulation 40 of the Children's Homes (England) Regulations 2015).

We will consider reporting requirements as part of our broader consideration of mandatory reporting at a later date.

(iii) introduce a system of licensing and registration of educational guardians for international students which requires Disclosure and Barring Service and barred list checks to be undertaken.

There are a number of options which we are considering to strengthen the safeguarding of international students attending school in the UK. We are working with the Home Office to explore visa requirements and options for the registration and licensing of educational guardians. We will continue to consider this alongside our work on the NMS for boarding schools, Keeping Children Safe In Education (KCSIE) and Working Together to Safeguard Children.

Recommendation 2: Responding to allegations and concerns

The Department for Education should:

(i) introduce a set of national standards for local authority designated officers in England and Wales to promote consistency

And (ii) clarify in statutory guidance that the local authority designated officer can be contacted for informal advice as well as when a concern or allegation needs to be referred

Following the publication of both the Independent Care Review of Children's Social Care and the National Panel Review into the murders of Arthur Labinjo-Hughes and Star Hobson, we are considering the scope and timetable for a review of the statutory guidance *Working Together to Safeguard Children*. We will work closely with other government departments and partner organisations, particularly local authorities, to consider revised content which would include the role of the LADO. As this is statutory guidance, the

department will consider running a full public consultation which would be required before any substantive changes to the content are made.

Recommendation 3: Governance

The Department for Education should:

(i) amend the Independent School Standards to include the requirements that there is an effective system of governance, based on three principles of openness to external scrutiny, transparency and honesty within the governance arrangements, and the ability of governors to have difficult conversations both internally and with those providing external scrutiny

We agree in principle with this recommendation and intend to consult on revised independent school standards (ISS) in 2023. As part of the consultation process, we will test how best to update the standards and in parallel consider if any part of the recommendation would sit better in KCSIE.

(ii) amend the Independent School Standards to stipulate that the proprietor cannot be the designated safeguarding lead

We agree in principle with this recommendation, given that it would provide a clear separation between the two different roles. We think we should take forward the change through KCSIE rather than the ISS, so that it applies to all schools and colleges, not just independent schools. We are currently working through these changes, which will come into force in September 2022.

(iii) amend the current system of registration of independent schools to apply the same standards to registrants as those applying to open a free school or early years provision

We are supportive of the principle of applying harmonised standards between settings, however differences between settings have arisen for legitimate reasons. This is particularly the case for the way in which the finances of each type of setting are arranged and regulated. In some cases, harmonisation would mean weakening standards.

We are already proposing in the Schools Bill, legislation to give greater powers to safeguard children at independent schools. The Bill was introduced in Parliament in May 2022 and includes new powers to make standards relating to the suitability of proprietors of independent schools. In particular, standards will be able to be made which require that an individual proprietor, or where the proprietor is a body of persons, any individual who has the general management and control of a proprietor body or is legally responsible and accountable for such a body, must be a person who is, in the opinion of the Secretary of State, a fit and proper person to be involved in the running of an independent school.

We will continue to explore the registration system and ensure, where

appropriate, the registration system for independent schools is reflective of the system for early years and free schools.

Recommendation 4: Training and awareness-raising

The Department for Education should:

(i) set nationally accredited standards and levels of safeguarding training in schools

We continue to believe that schools are best placed to determine their own training needs based on their own local circumstances and issues in line with Part 1 of KCSIE. The guidance sets out a framework to help schools and colleges safeguard and promote the welfare of children which governing bodies and proprietors should adhere to when determining staff training. Alongside this, governing bodies and proprietors should also have regard to the Teachers' Standards² which set out that all teachers should manage behaviour effectively to ensure a safe educational environment, in addition to requiring teachers to have a clear understanding of the needs of all pupils. We will consider this recommendation further to test whether our position continues to be the right one going forward.

(ii) make the highest level of safeguarding training mandatory for headteachers, designated safeguarding leads in England or designated safeguarding persons in Wales, designated safeguarding governors, or the proprietor or head of the proprietorial body

We believe that KCSIE guidance is already very clear that a high level of safeguarding training must be undertaken by designated safeguarding leads (DSLs) and headteachers. The role of the DSL, which is often the headteacher, carries a significant level of responsibility and the training given should enable them to carry out the role effectively. We are continuing, across government, to enhance the training and resources available for DSLs and other frontline professionals, including through the work of the independent Centre of Expertise on Child Sexual Abuse.

We have strengthened KCSIE 2022 to make it more explicit that all governors and trustees should receive appropriate safeguarding and child protection (including online) training at induction, and that their training should be regularly updated. We have added text to make clear that this training [for governors and trustees] should equip them with the knowledge to provide strategic challenge and assure themselves that the policies and procedures are effective in order to support the delivery of a robust whole school approach. Schools and colleges will be required to provide strong reasoning as to why this has not taken place in the case that they do not. Head teachers also have a responsibility to keep ahead of safeguarding requirements, via appropriate training. On this basis, we are of the view that

² [Teachers' standards - GOV.UK \(www.gov.uk\)](https://www.gov.uk/teachers-standards)

KCSIE already sets a strong framework for a higher level of training to be undertaken by DSLs and headteachers.

(iii) undertake an urgent review in order to improve the provision and effectiveness of relationships, sex and health education (RSHE) for children with special educational needs and disabilities, both for children who are in mainstream settings and for those in special schools

In September 2020 Relationships Education became compulsory for all primary school pupils, Relationships and Sex Education (RSE) compulsory for all secondary school pupils, and Health Education compulsory for all pupils in primary and secondary state-funded schools.

To build confidence and expertise to deliver the curriculum to those with more complex needs the department worked with several organisations such as the Hackney Learning Trust, Mayfield Special School, nasen – the National Association for Special Educational Needs - and the National Development Team for Inclusion to embed SEND in all strands of RSHE work. This included a RSHE SEND-specific teacher training module, a national webinar and regional teacher events.

Following the Ofsted review of sexual abuse in schools and colleges, we are developing a new programme of support that will focus on building teachers' confidence to know when and how to teach about sensitive subjects such as sharing nude images, sexual harassment and abuse and accessing online pornography. This includes teacher webinars and written guidance. As well as making sure that this work is fully inclusive, we will consider the options for a specific piece of work to support teachers of RSHE in special schools.

We are also planning a national evaluation of RSHE implementation which will include special schools. The evaluation will consist of a national survey of school leaders, RSHE leads and RSHE teachers, supported by qualitative research with school staff and pupils. The evaluation will look at the quality of implementation, the barriers to good quality implementation and test and revise the theory of change for how setting this requirement will improve children's outcomes.

Recommendation 5: Inspection and monitoring

The Department for Education should:

(i) require schools to inform the relevant inspectorate when they have referred a member of staff to the Disclosure and Barring Service, the Teaching Regulation Agency or the Education Workforce Council

There are already a number of referral requirements placed on all schools both in law and in KCSIE and we do not require schools to notify the inspectorate when they follow them. We are not clear on the benefit to the

system of a school telling the inspectorate of referrals to TRA/DBS, given they will be investigated thoroughly by those services. We do not believe these referrals should be given a profile that is not given to other legal or KCSIE related referrals. We would be cautious about creating a reporting mechanism just related to DBS and TRA when, as far as reasonably possible, our policy position in KCSIE is to create as simple a system as possible that applies equally across the system.

(ii) include in the national standards for local authority designated officers a requirement that local authority designated officers should share information on referrals from schools with the relevant inspectorate (see recommendation 2)

In line with Recommendation 2, we will be considering this as part of future updates to *Working Together to Safeguard Children*.

Recommendation 6: Vetting, barring and teacher misconduct

(i) The Department for Education should amend the Teachers' Disciplinary (England) Regulations 2012 to bring all teaching assistants, learning support staff and cover supervisors within the misconduct jurisdiction of the Teaching Regulation Agency.

The current teacher misconduct regime was established in 2012, replacing a regime previously operated by the General Teaching Council for England (GTCE). The GTCE could prevent a teacher from teaching in maintained school, but could not prevent them going on to teach in the independent sector, where registration with the GTCE was not needed. The current regime applies to all those who undertake teaching work³ (although it is not teaching work where the person carrying out the activity does so (other than for the purposes of induction) subject to the direction and supervision of a qualified teacher or another person nominated by the head teacher). This applies to all specified settings⁴, including the independent sector.

This means that the TRA will consider the work or activities (teaching work) undertaken by the person, rather than the specific job role or position the person holds. Anyone undertaking unsupervised teaching work in schools is likely to fall within jurisdiction of the TRA, regardless of whether or not they are employed as a teacher. In effect, this could include teaching assistants, learning support staff and cover supervisors if they undertake unsupervised teaching work. There may be instances where a teaching assistant is referred to the TRA if the alleged misconduct is so serious that it warrants a decision on whether that person should be prevented from carrying out teaching work in the future.

We will continue to monitor and keep under review how the teacher misconduct regime operates going forward and will keep the Inquiry informed

³ Regulation 3 of the Teachers' Disciplinary (England) Regulations 2012

⁴ Section 141A of the Education Act 2002

of any decision to make changes in the future.

The Department for Education should amend Keeping Children Safe in Education to:

(ii) provide more detailed guidance as to the quality, nature and degree of supervision required for supervised volunteers working with children in schools

We agree in principle with the recommendation and will consider how and when to update KCSIE to be more specific on levels of supervision. This needs to be considered in the broader context of the current Home Office commissioned review of the disclosure and barring regime, which includes the definition of regulated activity within its terms of reference. We will carefully consider the findings and recommendations of the DBS Review in due course.

(iii) make clear that Disclosure and Barring Service checks are free of charge for supervised volunteers, and should be obtained wherever practicable

We accept this recommendation and have reflected in KCSIE 2022 that the DBS does not charge for checks on volunteers, making it clear though that if schools are using an independent organisation to carry out the check, there is likely to be an admin charge. Subject to public consultation, we also intend to clarify in future iterations of KCSIE that schools should obtain a DBS check on volunteers where practicable.

(iv) The Department for Education amend the regulations to provide that inclusion on the children's barred list automatically disqualifies the individual from being a governor or proprietor of any school (Home Office lead) and (v) The Home Office should amend the Safeguarding Vulnerable Groups Act 2006 so that proprietors and members of the proprietorial body and governors should be checked against the children's barred list.

These recommendations are interlinked. In relation to (v), the decision that proprietors and members of the proprietorial body and governors should be checked against the children's barred list is one to be considered by the Department for Education. Under (iv), the Department for Education will work in collaboration with the Home Office and DBS. Should the decision be made that this level of DBS check will be required for these roles, the Home Office will then consider how that can be delivered through the disclosure and barring regime.

Next Steps

We trust this update gives the Inquiry a sense of how the department, working across government where relevant, is seeking to address these recommendations. We will continue to progress work against these recommendations and communicate updates in due course.